

United States
Circuit Court of Appeals

For the Ninth Circuit.

H. P. BROWN,

Appellant,

vs.

W. J. FITZGERALD, Sheriff of the City and
County of San Francisco, State of California,
and W. A. HAMM, Sheriff of the County of
Grays Harbor, State of Washington,
Appellees.

Transcript of Record.

Upon Appeal from the United States District Court for
the Northern District of California,
Southern Division.

FILED

JAN 20 1930

PAUL P. O'BRIEN,
CLERK

United States
Circuit Court of Appeals
For the Ninth Circuit.

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Appellant,

vs.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS
OF RECORD.

For Petitioner and Appellant:

MORGAN J. DOYLE, Esq., WILLIAM F.
HUMPHREY, Esq., ROBERT E. FITZ-
GERALD, Esq., and INMAN & WEST,
Esqs., Standard Oil Bldg., San Francisco,
Calif.

For Respondents and Appellees:

MILTON T. FARMER, Esq., ATHEARN,
CHANDLER & FARMER, and FRANK
R. DEVLIN, Esq., Balboa Bldg., San
Francisco, Calif.

In the Southern Division of the District Court of
the United States for the Northern District of
California.

No. 20142—K.

In the Matter of the Application of H. P. BROWN
for Writ of Habeas Corpus.

PRAECIPE FOR TRANSCRIPT OF RECORD.

To the Clerk of the Above-entitled Court:

You will please issue record of appeal herein con-
sisting of:

1. Petition for writ of habeas corpus.
2. Indictment State of Washington vs. H. P.
Brown.

3. Order to show cause.
4. Bond for appearance.
5. Order denying writ of habeas corpus.
6. Petition for order allowing appeal and for bail pending appeal.
7. Assignments of error.
8. Order allowing appeal.
9. Order remanding.
10. Citation.

WILLIAM F. HUMPHREY,
ROBERT E. FITZGERALD,
MORGAN J. DOYLE,
INMAN and WEST,
Attorneys for Petitioner. [1*]

Due service and receipt of a copy of the within praecipe is hereby admitted this 10th day of December, 1929.

MILTON T. FARMER,
ATHEARN, CHANDLER & FARMER,
FRANK R. DEVLIN,
Attorneys for Respondents.

[Endorsed]: Filed Dec. 11, 1929. [2]

In the District Court of the United States, in and for the Northern District of California, Southern Division.

In the Matter of the Application of H. P. BROWN,
for a Writ of Habeas Corpus.

*Page-number appearing at the foot of page of original certified Transcript of Record.

PETITION FOR WRIT OF HABEAS CORPUS.

To the Honorable Judge of the Above-entitled Court:

The petition of H. P. Brown, a resident and citizen of the State of California, and now at the City and County of San Francisco, in said state, respectfully represents:

I.

That your petitioner is imprisoned, detained and restrained of his liberty at San Francisco, California, by W. J. Fitzgerald, Sheriff of the City and County of San Francisco, State of California, and W. A. Hamm, Sheriff of the County of Gray's Harbor, Washington.

II.

That the cause or pretense for his imprisonment and detention is as follows, to wit:

A purported indictment alleged to have been found against petitioner by the Grand Jury of Gray's Harbor County, Washington, together with a warrant of arrest based upon said purported indictment, and upon an executive warrant signed by the Governor of the State of California in the matter of the extradition of H. P. Brown, said executive warrant commanding [3] the arrest, imprisonment and detention of your petitioner and the transportation and removal of your petitioner from the State of California to the State of Washington under and pursuant to the terms and provisions of Section 5278 of the Revised Statutes of the United States of America.

III.

That the restraint and imprisonment of your petitioner is illegal and that the illegality thereof consists in this, to wit:

(a) That petitioner has not been charged with the commission of any crime or offense in the State of Washington and is not subject to extradition and removal to the State of Washington under the provisions of Section 5278 of the Revised Statutes of the United States of America.

(b) That said purported indictment does not charge petitioner with a crime in the State of Washington, and consequently petitioner is not subject to extradition to the State of Washington under the provisions of Section 5278 of the Revised Statutes of the United States of America.

(c) That the Washington State Banking Act (Session Laws of Washington 1917, Chap. 8, pages 271 to 308) and Section 56 thereof (the section upon which said purported indictment is based) is invalid and void and is obnoxious to and in violation of the provisions of Section 19 of Article II of the Constitution of the State of Washington.

(d) That aforesaid Washington State Banking Act and the whole thereof, and particularly said Section 56 thereof, is invalid and void and is in violation of and obnoxious to the provisions of and each and all of the provisions of the Fourteenth Amendment to the Constitution of the United States, and consequently petitioner is not subject to extradition to the State of Washington under the

provisions of Section 5278 of the Revised [4] Statutes of the United States of America.

(e) That aforesaid indictment, upon which aforesaid executive warrant is based, is invalid and void upon its face in that said indictment is not signed by the prosecuting attorney of the County of Gray's Harbor of the State of Washington (the county in which said purported indictment is alleged to have been returned) in accordance with the laws of the State of Washington.

WHEREFORE your petitioner prays that a writ of habeas corpus be granted and issued directed to the said W. J. Fitzgerald, Sheriff of the City and County of San Francisco, State of California, and W. A. Hamm, Sheriff of the County of Gray's Harbor, State of Washington, commanding them to produce the body of petitioner before your Honor at a time and place therein to be specified, then and there to do what your Honor shall order concerning the detention and restraint of your petitioner; and that your petitioner be restored to his liberty.

H. P. BROWN.

Dated: San Francisco, California, November 20, 1929. [5]

State of California,
City and County of San Francisco,—ss.

H. P. Brown, being duly sworn, says that he is the petitioner in the within entitled matter; that he has read the above and foregoing petition and knows the contents thereof; that the said petition is true of his own knowledge except as to those matters

authorized to examine into the affairs of a banking organization existing under and by virtue of the laws of the state of Washington, committed as follows, to wit:

That the said H. P. Brown, then and there being in the county of Grays Harbor, State of Washington, did, on or about the 10th day of January, 1927, and within three years from the date of presentment of this indictment, willfully, knowingly, maliciously, fraudulently, feloniously and unlawfully make, subscribe, exhibit to and file with Hayes & Hayes, Inc., bankers, a banking corporation duly organized and existing pursuant to the laws of the State of Washington as a state bank, authorized to transact the business of banking in said state, a certain paper, instrument or financial statement, which said instrument was signed and subscribed to by the said H. P. Brown, and which said paper, instrument [7] or financial statement purported to set forth a full, true and correct financial statement of the assets and liabilities of the said H. P. Brown as of date December 31, 1926, but that said paper, instrument or financial statement was false the fictitious in that the said H. P. Brown set forth therein that he, the said H. P. Brown, was the owner of stocks and bonds to the value of \$1,005,118.52, and that in truth and in fact, said stocks and bonds were of no value whatever over and above the sum of \$105,000.00, which fact was then and there well known to the said H. P. Brown and that said paper, instrument or financial statement was so made, subscribed to and exhibited to the said bank-

ing corporation as aforesaid by the said defendant, H. P. Brown, with the intent to deceive the examiner or examiners or other person or persons who were authorized by law to examine into the affairs of said banking corporation, contrary to the statutes in such cases made and provided, and against the peace and dignity of the State of Washington.

COUNT II.

H. P. Brown is accused by the grand jury of Grays Harbor county, duly impaneled and sworn, by this indictment, of the crime of knowingly subscribing to or exhibiting a false and fictitious paper or instrument with the intent to deceive a person authorized to examine into the affairs of a banking organization existing under and by virtue of the laws of the State of Washington, committed as follows, to wit:

That the said H. P. Brown, then and there being in the county of Grays Harbor, State of Washington, did willfully, knowingly, [8] maliciously, fraudulently, feloniously and unlawfully, on or about the 15th day of January, 1927, and within three years from the date of presentment of this indictment, make, subscribe, exhibit to, and file with Hayes & Hayes, Inc., bankers, a corporation duly organized and existing under and pursuant to the laws of the State of Washington as a state bank and authorized to transact the business of banking in said state, a certain paper, instrument or financial statement, which said paper, instrument or financial statement was signed and subscribed to by the said

H. P. Brown, and which said paper, instrument or financial statement purported to set forth a full, true and correct financial statement of the assets and liabilities of the Independence Logging Company, a corporation duly organized and existing under and by virtue of the laws of the State of Washington, and of which corporation the said H. P. Brown was then and there president and which said paper, instrument or financial statement purported to set forth a full, true and correct financial statement of the assets and liabilities of the said Independence Logging Company as of date December 31, 1926, and that said paper, instrument or financial statement was false and fictitious in that therein there was set forth that the liabilities of said corporation were \$598,377.96, and that the surplus and undivided profits of said corporation were \$359,988.52, when in truth and in fact, the liabilities of said corporation were \$1,352,487.70, and that there were no surplus and or undivided profits of said corporation, which fact was then and there well known to the said H. P. Brown and that said paper, instrument or financial statement was made and subscribed to, exhibited to and filed with the said banking corporation as aforesaid by the said H. P. Brown, with the intent to deceive the examiner or [9] examiners or other person or persons who were authorized to examine into the affairs of said banking corporation, contrary to the statutes in such cases made and provided, and against the peace and dignity of the State of Washington.

COUNT III.

H. P. Brown is accused by the grand jury of Grays Harbor county, duly impaneled and sworn, by this indictment, of the crime of knowingly subscribing to, or exhibiting a false and fictitious paper or instrument with the intent to deceive a person authorized to examine into the affairs of a banking organization existing under and by virtue of the laws of the State of Washington, committed as follows, to wit:

That the said H. P. Brown, then and there being in the county of Grays Harbor, State of Washington, did willfully, knowingly, maliciously, fraudulently, feloniously and unlawfully, on or about the 15th day of January, 1927, and within three years from the date of presentment of this indictment, make, subscribe, exhibit to and file with Hayes & Hayes, Inc., bankers, a corporation duly organized and existing under and pursuant to the laws of the State of Washington as a bank, and authorized to transact the business of banking in said state, a certain paper, instrument or financial statement, which said paper, instrument or financial statement was signed and subscribed to by the said H. P. Brown, and which said paper, instrument or financial statement purported to set forth a full, true and correct statement of the assets and liabilities of the Humptulips Driving Company, a corporation duly organized and existing under and by virtue of the laws of the State of Washington, and of which corporation the said H. P. Brown was then and there president, and which said paper, instrument or

financial statement [10] purported to set forth a full, true and correct financial statement of the assets and liabilities of the said Humptulips Driving Company as of date December 31, 1926, and that said paper, instrument or financial statement was false and fictitious in that therein was set forth that the assets of said corporation were \$182,824.52, when in truth and in fact, the assets of said corporation were \$36,493.66 and no more, and that in said statement the liabilities of said corporation were set forth to be \$102,170.49, and that the surplus and undivided profits thereof were \$80,654.03, when in truth and in fact, the liabilities of said corporation were \$235,531.15, and that said corporation had no surplus and or undivided profits, but a deficit of \$148,503.76, which fact was then and there well known to the said H. P. Brown and that said paper, instrument or financial statement was made and subscribed to, exhibited to and filed with the said banking corporation as aforesaid by the said H. P. Brown with the intent to deceive the examiner or examiners or other person or persons who were authorized to examine into the affairs of the said banking corporation, contrary to the statutes in such cases made and provided, and against the peace and dignity of the State of Washington.

COUNT IV.

H. P. Brown is accused by the grand jury of Grays Harbor county, duly impaneled and sworn, by this indictment, of the crime of knowingly subscribing to or exhibiting a false and fictitious paper

or instrument with the intent to deceive a person authorized to examine into the affairs of a banking organization existing under and by virtue of the laws of the State of Washington committed as follows, to wit: [11]

That the said H. P. Brown, then and there being in the County of Grays Harbor, State of Washington, did willfully, knowingly, maliciously, fraudulently, feloniously and unlawfully, on or about the 15th day of January, 1927, and within three years from the date of presentment of this indictment, make, subscribe, exhibit to and file with Hayes & Hayes, Inc., bankers, a corporation duly organized and existing under and pursuant to the laws of the State of Washington as a bank, and authorized to transact the business of banking in said state, a certain paper, instrument or financial statement, which said paper, instrument or financial statement was signed and subscribed to by the said H. P. Brown, and which said paper, instrument or financial statement purported to set forth a full, true and correct financial statement of the assets and liabilities of the River Logging Company, a corporation duly organized and existing under and by virtue of the laws of the State of Washington, and of which corporation the said H. P. Brown was then and there president, and which said paper, instrument or financial statement purported to set forth a full, true and correct financial statement of the assets and liabilities of the said River Logging Company as of date December 31, 1926, and that said paper, instrument or financial statement was false and fic-

titious in that therein was set forth that the assets of said corporation were \$322,283.29, when in truth and in fact, the assets of said corporation were \$113,433.22 and no more, and that in said statement the liabilities of said corporation were set forth to be \$186,782.92, [12] and that the surplus and undivided profits thereof were \$135,500.37, when in truth and in fact, the liabilities of said corporation were \$258,836.56, and that said corporation had no surplus and undivided profits, but a deficit of \$145,401.64, which said fact was then and there well known to the said H. P. Brown and that said paper, instrument or financial statement was made and subscribed to, exhibited to and filed with the said banking corporation as aforesaid by the said H. P. Brown with the intent to deceive the examiner or examiners or other person or persons who were authorized to examine into the affairs of said banking corporation, contrary to the statutes in such cases made and provided, and against the peace and the dignity of the State of Washington.

COUNT V.

H. P. Brown is accused by the grand jury of Grays Harbor county, duly impaneled and sworn, by this indictment, of the crime of knowingly subscribing to or exhibiting a false and fictitious paper or instrument with the intent to deceive a person authorized to examine into the affairs of a banking organization existing under and by virtue of the laws of the State of Washington, committed as follows, to wit:

That the said H. P. Brown, then and there being in the county of Grays Harbor, State of Washington, did willfully, knowingly, maliciously, fraudulently, feloniously and unlawfully, on or about the 15th day of January, 1927, and within three years from the date of presentment of this indictment, make, subscribe, exhibit to, and file with Hayes & Hayes, Inc., bankers, a corporation duly organized and existing under and pursuant to the laws of the State of Washington as a bank, and authorized to transact the business of banking in said state, a certain paper, instrument or financial statement, which said paper, instrument or financial [13] statement was signed and subscribed to by the said H. P. Brown, and which said paper, instrument or financial statement purported to set forth a full, true and correct financial statement of the assets and liabilities of the Humptulips Logging Company, a corporation duly organized and existing under and by virtue of the laws of the State of Washington, and of which corporation the said H. P. Brown was then and there president, and which said paper, instrument or financial statement purported to set forth a full, true and correct financial statement of the assets and liabilities of the said Humptulips Logging Company as of date December 31, 1926, and that said paper, instrument or financial statement was false and fictitious in that therein was set forth that the assets of said corporation were \$537,424.84, when in truth and in fact, the assets of said corporation were \$839,502.40, and that in said statement the liabilities of said cor-

poration were set forth to be \$319,603.83, and that the surplus and undivided profits thereof were \$217,821.01, when in truth and in fact, the liabilities of said corporation were \$644,926.87, and the surplus and undivided profits of said corporation were \$194,575.53, which said fact was then and there well known to the said H. P. Brown, and that said paper, instrument or financial statement was made and subscribed to, exhibited to and filed with the said banking corporation as aforesaid by the said H. P. Brown, with the intent to deceive the examiner or examiners or other person or persons who were authorized to examine into the affairs of said banking corporation, contrary to the statutes in such cases made and provided, and against the peace and dignity of the State of Washington.

L. B. DONLEY,

Special Attorney for Grays Harbor County and
Assistant Attorney General of the State of
Washington. [14]

Endorsed as a true bill:

C. O. COOPER,

Foreman of Grand Jury.

Witnesses examined before the grand jury:

A. P. Stockwell.	Fergus Morrow.
C. S. Moody.	Ralph Amende.
F. L. McNair.	A. B. Crawford.
B. B. Averill.	Margaret Smith
A. S. White.	Linklater.

[Endorsed]: Filed Nov. 29, 1929. [15]

[Title of Court and Cause.]

ORDER TO SHOW CAUSE.

GOOD CAUSE APPEARING THEREFOR and upon reading the verified petition on file herein,—

IT IS HEREBY ORDERED that W. J. Fitzgerald, Sheriff of the City and County of San Francisco, State of California, and W. A. Hamm, Sheriff of the County of Gray's Harbor, Washington, appear before this court on the 25th day of November, 1929, at the hour of 10 A. M. of said day, to show cause if any they have why a writ of habeas corpus should not issue herein as prayed for but a copy of this order be served upon said William J. Fitzgerald and W. A. Hamm.

AND IT IS FURTHER ORDERED that said W. J. Fitzgerald and W. A. Hamm, or whoever, acting under their or either of their orders, shall have the custody of said H. P. Brown, is hereby ordered and directed to retain said H. P. Brown within the jurisdiction of this court until its further order herein. [16]

IT IS FURTHER ORDERED, pending the hearing of this order to show cause, said H. P. Brown be admitted to bail in the sum of \$10,000.00, to be approved by a Judge of the above-entitled court.

Dated: November 21, 1929.

FRANK H. KERRIGAN,
Judge of the United States District Court.

[Endorsed]: Filed Nov. 21, 1929. [17]

RETURN ON SERVICE OF WRIT.

United States of America,
Northern District of Calif.,—ss.

I hereby certify and return that I served the annexed order to show cause on the therein named W. A. Hamm, Sheriff of Gray's Harbor, Washington, by handing to and leaving a true and correct copy thereof with W. A. Hamm, personally at San Francisco, Calif., in said District, on the 21st day of November, A. D. 1929.

FRED L. ESOLA,
U. S. Marshal.

By George Walter Kavanaugh,
Deputy.

RETURN ON SERVICE OF WRIT.

United States of America,
Northern District of Calif.,—ss.

I hereby certify and return that I served the annexed order to show cause on the therein named William J. Fitzgerald, Sheriff of the City and County of San Francisco, Calif., by handing to and leaving a true and correct copy thereof with Howard Bernhard, Under-sheriff, at San Francisco,

Calif., in said District, on the 21st day of November, A. D. 1929.

FRED L. ESOLA,

U. S. Marshal.

By George Walter Kavanaugh,

Deputy.

[Endorsed]: Filed Nov. 22, 1929. [18]

[Title of Court and Cause.]

BOND FOR APPEARANCE.

KNOW ALL MEN BY THESE PRESENTS: That we, the Commercial Casualty & Insurance Company, a corporation of the State of New Jersey, and authorized by the laws of the State of California to execute bonds and undertakings, as sole surety, hereby binds itself, unto the United States of America in the full and just sum of Ten Thousand (\$10,000.00) Dollars, lawful money of the United States of America, to be paid the said United States of America, its attorney, executors, administrators, successors, and assigns, jointly and severally by these presents:

SEALED with our seals and dated this 21st day of November, A. D. 1929.

WHEREAS, lately at a Southern Division, District Court of the United States, Northern District of California, in a matter pending in said court in which a writ of habeas corpus was applied for by H. P. Brown, an order was made by said court

directing Hon. W. J. Fitzgerald, Sheriff of the City and County of San Francisco, State of California, and Hon. W. A. Hamm, Sheriff of the County of Gray's Harbor, Washington, to show cause why the writ of habeas corpus should not be granted;

AND WHEREAS, the said Court made and entered its order permitting the release of the said H. P. Brown from custody, during the pendency of the determination of said matter, upon giving a good and sufficient bond in the penalty of Ten Thousand (\$10,000.00) Dollars,—

NOW, THEREFORE, if the said H. P. Brown shall personally appear at the Southern Division, District Court of the United States for the Northern District of California, at any and all times or time he may be required to appear and render himself amenable to any and all lawful orders and process in the premises, and not depart from said court without leave first obtained, and if remanded into the custody of the said W. J. Fitzgerald, Sheriff of the City and County of San Francisco, State of California, and said W. A. Hamm, Sheriff of the County of Gray's Harbor, Washington, and will render himself in execution thereof, then this obligation to be void, otherwise to be and remain in full force, virtue and effect.

COMMERCIAL CASUALTY & INSURANCE
COMPANY.

By M. SCHUMEACKER, (Seal)

Its Attorney-in-fact.

This recognizance shall be deemed and construed to contain the "Express Agreement" for summary judgment and execution thereon, mentioned in Rule 34 of the District Court.

Taken and acknowledged before me this 21st day of November, 1929.

[Seal] ERNEST E. WILLIAMS,
United States Commissioner, Northern District of
California. [19]

State of California,
City and County of San Francisco,—ss.

On this 21st day of November, in the year one thousand *nine thousand* nine hundred and twenty-nine, before me, Con T. Shea, a notary public in and for the said City and County of San Francisco, State of California, residing therein, duly commissioned and sworn, personally appeared M. J. Schumacker, known to me to be the attorney-in-fact of the Commercial Casualty Insurance Company, the corporation described in and that executed the within instrument, and also known to me to be the person who executed it on behalf of the corporation therein named, *any* they acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in the City and County of San Francisco, State of California, the day and year in this certificate first above written.

[Seal] CON T. SHEA,
Notary Public in and for the City and County of
San Francisco, State of California.

My commission expires July 30, 1931.

Form of bond and sufficiency of surety approved this 21st day of November, 1929.

FRANK H. KERRIGAN,
United States District Judge.

[Endorsed]: Filed Nov. 22, 1929. [20]

[Title of Court and Cause.]

Before KERRIGAN, District Judge.

ORDER DENYING PETITION FOR WRIT OF
HABEAS CORPUS.

The petition for a writ of habeas corpus is denied, and the petition is dismissed, upon authority of *In re Strauss*, 197 U. S. 324; *Pierce vs. Creecy*, 210 U. S. 387; *Drew vs. Thaw*, 235 U. S. 432; *Collins vs. Traeger*, 27 Fed. 2d 842.

FRANK H. KERRIGAN,
U. S. District Judge.

November 29, 1929.

[Endorsed]: Filed Nov. 29, 1929. [21]

[Title of Court and Cause.]

PETITION FOR APPEAL.

To the Honorable FRANK H. KERRIGAN, District Judge and One of the Judges of the Above-entitled Court, Presiding Therein:

The above-named petitioner, H. P. Brown, con-

ceiving himself aggrieved by the order and decree made and entered in the above-named court in the above-entitled cause under date of November 29th, 1929, wherein and whereby your petitioner's petition for a writ of habeas corpus was denied, and his petition dismissed, does hereby appeal from said order and decree, and from the whole thereof, to the United States Circuit Court of Appeals for the Ninth Circuit, for the reasons set forth in the assignment of errors filed herewith.

Your petitioner prays that this, his petition for said appeal, may be allowed and that the transcript of the record, proceedings and papers upon which said order was made, duly authenticated, may be sent to the United States Circuit Court of Appeals for the Ninth Circuit.

Your petitioner further petitions that, pending the termination of said appeal by said United States Circuit Court of Appeals for the Ninth Circuit, your petitioner may be allowed his liberty under such bonds as to your Honor may seem [22] meet, just and sufficient.

Dated this 30th day of November, 1929.

WILLIAM F. HUMPHREY,
ROBERT E. FITZGERALD,
MORGAN J. DOYLE,
INMAN & WEST,

Attorneys for Said Petitioner.

[Endorsed]: Filed Dec. 2, 1929. [23]

[Title of Court and Cause.]

ASSIGNMENT OF ERRORS.

Comes now H. P. Brown, petitioner herein, and files the following assignment of errors upon which he will rely upon his appeal from the order and decree made by this Honorable Court on the 29th day of November, 1929, in the above cause:

1. The United States District Court for the Northern District of California, Southern Division, erred in denying the petition for a writ of habeas corpus.

2. That said District Court erred in denying the petition for writ of habeas corpus, respondents having failed to produce any warrant or authority whatsoever for the arrest and detention of petitioner.

3. That said District Court erred in denying the petition for writ of habeas corpus, respondents having failed to show cause why said writ should not be issued.

4. The said District Court erred in holding that petitioner was substantially charged with a crime under the laws of the State of Washington.

5. Said District Court erred in holding that the indictment under which petitioner is restrained and upon which the rendition warrant of the Governor of the State of California [24] is based, substantially charged petitioner with a violation of Section 56 of the Washington State Banking Act.

6. Said District Court erred in holding that it did not have power or jurisdiction to examine into or determine whether said indictment substantially charges petitioner with a crime under the laws of the State of Washington.

7. Said District Court erred in holding that the prohibitions and penalties of the Washington State Banking Act, and particularly section 56 thereof, applies to persons other than the officers, directors and banking personnel of Banks and Bank Examiners.

8. Said District Court erred in holding that Section 56 of the Washington State Banking Act applied to or denounced or forbade the subscribing or exhibiting of any false papers other than false papers pertaining to the financial condition or affairs of a bank.

9. Said District Court erred in holding that it did not have power or jurisdiction to consider and determine the question whether Section 56 of the Washington State Banking Act was invalid and void and unconstitutional under the provisions of Article II, Section 19, of the Constitution of the State of Washington.

10. Said District Court erred in holding that Section 56 of the Washington State Banking Act is not in violation of and obnoxious to the provisions of the Fourteenth Amendment to the Constitution of the United States of America.

11. Said District Court erred in holding that it did not have power and jurisdiction to determine whether said Section 56 of the Washington State

Banking Act was invalid and void and in violation of and obnoxious to the provisions of the Fourteenth Amendment to the Constitution of the United [25] States.

12. Said District Court erred in refusing to issue a writ of habeas corpus pursuant to said petition.

WILLIAM F. HUMPHREY,
ROBERT E. FITZGERALD,
MORGAN J. DOYLE,
INMAN & WEST,

Attorneys for Said Petitioner.

[Endorsed]: Filed Dec. 2, 1929. [26]

Due service and receipt of a copy of the within assignment of errors is hereby admitted this 10th day of December, 1929.

MILTON T. FARMER,
ATHEARN, CHANDLER & FARMER,
FRANK R. DEVLIN,
Attorneys for Respondents.

[Endorsed]: Filed Dec. 11, 1929. [27]

[Title of Court and Cause.]

ORDER ALLOWING APPEAL.

The petitioner, H. P. Brown, having filed his petition for an order granting him an appeal to the United States Circuit Court of Appeals for the Ninth Circuit, from the order and decree entered herein on the 29th day of November, 1929, denying his petition for a writ of habeas corpus,—

IT IS ORDERED that said petition on appeal be and the same is hereby granted.

Dated this 5th day of Dec. 1929.

FRANK H. KERRIGAN,
Judge.

[Endorsed]: Filed Dec. 5, 1920. [28]

[Title of Court and Cause.]

ORDER REMANDING PETITIONER INTO
CUSTODY.

WHEREAS, H. P. Brown, petitioner herein, having filed petition for writ of habeas corpus and having been by order of this court admitted to bail in the sum of Ten Thousand (10,000) Dollars pending the hearing of said petition; and

WHEREAS, after a hearing of said petition, this Court entered its order denying said petition and denying the writ of habeas corpus; and

WHEREAS, thereafter said H. P. Brown filed a petition for an order allowing an appeal and for an order admitting him to bail pending the hearing of said appeal in the United States Circuit Court of Appeals for the Ninth Circuit; and

WHEREAS, this Court, after a hearing of said petition, entered its order allowing said appeal but denying bail to said H. P. Brown pending the hearing of said appeal,—

NOW, THEREFORE, IT IS HEREBY ORDERED that the said H. P. Brown be and he is

hereby remanded into the custody of Wm. J. Fitzgerald, Sheriff of the City and County of San Francisco, State of California, to be by him detained and held within the said City and County of San Francisco, State of California, pending the determination of said appeal by the aforesaid United States Circuit Court of Appeals for the Ninth Circuit.

Dated December 6, 1929.

FRANK H. KERRIGAN,
United States District Judge.

[Endorsed]: Filed Dec. 6, 1929. [29]

ADMISSION OF SERVICE OF CITATION.

Due service and receipt of a copy of the within citation on appeal is hereby admitted this 10th day of December, 1929.

MILTON T. FARMER,
ATHEARN, CHANDLER & FARMER,
And FRANK R. DEVLIN,

Attorneys for W. J. Fitzgerald, Sheriff of the City and County of San Francisco, and W. A. Hamm, Sheriff of the County of Grays Harbor, State of Washington.

[Endorsed]: Filed Dec. 11, 1929. [30]

CERTIFICATE OF CLERK U. S. DISTRICT
COURT TO TRANSCRIPT ON APPEAL.

I, Walter B. Maling, Clerk of the United States District Court, for the Northern District of California, do hereby certify that the foregoing 30 pages, numbered from 1 to 30, inclusive, contain a full, true and correct transcript of the records and proceedings, in the Matter of H. P. Brown, on Habeas Corpus, No. 30,142, as the same now remain on file of record in this office.

I further certify that the cost for preparing and certifying the foregoing *apostles on appeal* is the sum of ten dollars and seventy-five cents (\$10.75) and that the same has been paid to me by the attorney for the appellant herein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, this 13th day of Dec., A. D. 1929.

[Seal]

WALTER B. MALING,

Clerk.

By C. M. Taylor,

Deputy Clerk. [31]

CITATION ON APPEAL.

United States of America,—ss.

The President of the United States of America,
to W. J. Fitzgerald, Sheriff of the City and
County of San Francisco, State of California,
and W. A. Hamm, Sheriff of the County of
Grays Harbor, State of Washington, GREET-
ING:

YOU ARE HEREBY CITED AND ADMON-
ISHED to be and appear at a United States Cir-
cuit Court of Appeals for the Ninth Circuit, to be
holden at the city of San Francisco, in the State
of California, within thirty days from the date
hereof, pursuant to an order allowing an appeal,
of record in the Clerk's office of the United States
District Court for the Northern District of Cali-
fornia, Southern Division, wherein H. P. Brown
is appellant and you are appellees, to show cause,
if any there be, why the decree or judgment ren-
dered against the said appellant, as in the said order
allowing appeal mentioned, should not be corrected,
and why speedy justice should not be done to the
parties in that behalf.

WITNESS, the Honorable FRANK H. KERRI-
GAN, United States District Judge for the North-
ern District of California, this 5 day of December,
A. D. 1929.

FRANK H. KERRIGAN,
United States District Judge.

[Endorsed]: Filed Dec. 5, 1929. [32]

[Endorsed]: No. 6014. United States Circuit Court of Appeals for the Ninth Circuit. H. P. Brown, Appellant, vs. W. J. Fitzgerald, Sheriff of the City and County of San Francisco, State of California, and W. A. Hamm, Sheriff of the County of Grays Harbor, State of Washington, Appellees. Transcript of Record. Upon Appeal from the United States District Court for the Northern District of California, Southern Division.

Filed December 13, 1929.

PAUL P. O'BRIEN,
Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.